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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,775	01/16/2004	Maria Masac Kulas	CJK-14	8139

36707 7590 12/29/2005

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EXAMINER

GELLNER, JEFFREY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,775

Applicant(s)

KULAS, MARIA MASAE

Examiner

Jeffrey L. Gellner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Invention III in the telephone interview of 4 April 2005 is acknowledged. The traversal is on the ground(s) that: the method could not be used to dispense paper towels. This is not found persuasive because the legal standard for an alternative method is that it be possible not probable or efficient. Here, the steps could be used as stated by Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-17 are rejected under 35 U.S.C. §102(b) as being anticipated by Moffitt (US 113,323).

As to Claim 12, Moffitt discloses an apparatus (“apparatus” of Figs. 2 and 2) for securing a windscreen (“awning” of title) to a supporting stake (stake below “3rd attachment portion” of Figs. 1-3), the windscreen including first and second stakes (rods above “attachment portions” of Figs. 1-3) attached to an elongated flexible sheet (from “cloth” of col. 2 lines 5-6), wherein the first and second stakes are perpendicular to a direction of the flexible sheet (at top of bow, that is

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location “f” of Fig. 3 the sheet will be perpendicular to the stakes along the direction of the sheet’s elongation) and are separated by a portion of the flexible sheet along the direction of elongation (sheet stretches across the “top” of Fig. 3), the stake suitable for being vertically supported by ground, the apparatus comprising first and second attachment portions (“attachment portions” of Figs. 1-3) for attaching the first and second stakes (shown in Figs. 1-3) so that the stakes are held adjacent and substantially parallel (shown in Fig. 3) to each other, so that the portion of the flexible sheet is curved around to form an enclosure that is substantially closed at the sides (when sheet is completely over the top of bows in Fig. 3); and, a third attachment portion (“3rd attachment portion” of Figs. 1-3) coupled to the first and second attachment portions, wherein the third attachment portion allows mounting of the apparatus to the supporting stake (Figs. 1-3).

As to claim 13, Moffitt further discloses the first and second rods held by the apparatus in a position above and substantially parallel the stake (Figs. 1 and 3).

As to claim 14, Moffitt further discloses the first and second stakes held in line with a length of the supporting stake (Figs. 1 and 3)

As to claim 16, Moffitt further discloses the apparatus removably coupled to the supporting stake.

As to claim 17, Moffitt further discloses an attachment portion with a hole (“attachment portions” show holes in Fig. 2).

As to claim 18, Moffitt further discloses for storing the apparatus rolled in the elongated direction of the flexible sheet (in that the apparatus of Moffitt is capable of being rolled in this manner with the sheet for storage).

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Moffitt (US 113,323).

As to claim 15, the limitations of Claim 12 are disclosed as described above. Not disclosed is the apparatus integral with the supporting stake. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Moffitt by making the apparatus integral with the stake so as to improve strength of the unit.

As to claim 19, the limitations of claim 19 are disclosed as described above. Not disclosed is the sheet cut transversely during a dispensing operation. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Moffitt by cutting the sheet transversely during a dispensing operation so as to have the sheet fit over the stakes.

Response to Arguments

Applicant's arguments filed 29 September 2005 have been fully considered but they are not persuasive. Applicant's arguments are: (1) Moffitt does not disclose stakes that are adjacent

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(Remarks page 4, 3rd para.); and, (2) Moffitt does not disclose the sheet being perpendicular to the stakes (Remarks page 4, 4th para.).

As to argument (1), Moffitt does disclose the stakes as parallel to each other in Fig. 3 at Examiner's addition of "Apparatus."

As to argument (2), Moffitt does disclose the sheet perpendicular to the stakes at the top portion of the stakes in Fig. 3. That is, where "f" is shown.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

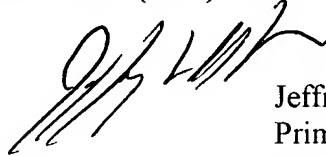
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6897. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Gellner', is positioned above the printed name.

Jeffrey L. Gellner
Primary Examiner
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